

Cabinet Decision	 TOWER HAMLETS
06/12/16	
Report of: Will Tuckley, Corporate Director, Communities, Localities & Culture	Classification: Unrestricted
Boishakhi Mela	

Lead Member	Councillor Asma Begum, Cabinet Member for Culture
Originating Officer(s)	Stephen Murray CLC Head of Arts, Parks and Events
Wards affected	All wards
Key Decision?	Yes
Community Plan Theme	A safe and cohesive community A healthy and supportive community

Executive Summary

The Boishakhi Mela is a Bengali Cultural festival with links to the Bengali New Year. It has been delivered by both the council and by community organisations supported by the Council. The Council ran the event for a three year period from 2009 – 2011. In 2012 the event was delivered by a community organisation, the Boishakhi Mela Community Trust (BMCT) who were successful in an open tender process and had a 9 year contract to deliver the Mela on behalf of the council. The contract required Independent reviews to take place in year 1, 3 and 6 of the contract.

In 2016, BMCT failed to sign up to an amended agreement by the stated deadline which would have seen the current contract cancelled in June 2016. This effectively cancelled the contract and ruled out BMCT running the festival in 2016. Rather than cancel this popular event a decision was taken by the Mayor in Executive to deliver the Mela in house led by the Council's Events Team.

This report sets out options for future delivery of the Mela.

Recommendations:

The Mayor in Cabinet is recommended to:

1. Review the options for the future delivery of the Mela.
2. Approve the recommendation that the 2017 and 2018 Mela is delivered in house whilst we market test other options outlined in this report.
3. Agree to provide funding up to £170k for the in-house management of the Mela.

1. REASONS FOR THE DECISIONS

- 1.1 Officers recommend that by agreeing to keep the delivery of the Mela in house for 2017 and 2018 this would allow a reasonable length of time to give full consideration to the options on future delivery and test the market.

2. ALTERNATIVE OPTIONS

For future delivery of the Mela we proposed the following 4 options for consideration:

- 2.1 **Option 1** - The tender out as a commercial event opportunity to run a Mela in Weavers Fields or Victoria Park with little or no subsidy from the council.

It is unlikely that any commercial promoters would tender for an opportunity to run the Mela unless they were permitted to ticket the event or elements of the event, as the scope for raising funds through sponsorship and trading is probably not sufficient to generate a reasonable profit. This view is based in part on previous production spend on the Mela against sponsorship and trading income, achieved both when delivered in house and by third party. Also we can find no examples of unticketed commercial run events of similar nature that run without any element of public subsidy.

Pros of commercial tender	Cons of commercial tender
Commercial organisations likely to have experience of managing large outdoor events and have access to the appropriate level of professional expertise	Limited take up of tender opportunity unless allowed to ticket the event. Numbers attending would drop if ticketed. (this happened at London Mela in 2015 which has now stopped)
May find it easier to secure artists	May have to have a looser event spec in order to allow the company more freedom to scope their own delivery model
Likely to have marketing expertise and good access to marketing channels	Fairly specialist area in the world of outdoor music/cultural events which would limit the number likely to be interested.
Less cost to the Council	Would likely lessen the engagement with the local community unless provided with a financial incentive to do so.
May be a good way to widen the audience base for the Mela by more diverse programme	Would be difficult to control artistic content which might not work with core audience

2.2 Option 2 - Tender out as a community event with some subsidy from the council

When the event was previously tendered out to community organisations there was only one response, BMCT. There would be more of a challenge for council in ensuring a safe event and transparency around finances with regard to audit requirements not being met. It is noted that the event took place in 2015 with no grant, just the cost of in kind delivery by Arts and Events detailed above. However it is unlikely that there would be many community organisations with the capacity to cover the costs in this way from the off even if they could obtain grants from bodies such as the Arts Council. Grants of this nature have largely come to an end in recent times.

Pros of community tender	Cons of community tender
Community ownership and local knowledge	Can be divisive if there are competing elements within the borough
More likely to provide employment and opportunities for training for local residents than a commercial organisation.	Limited number of organisations with capacity and knowledge to take on such a large event and could fail to obtain a licence if plans not robust
	Ongoing costs to Council
	Is likely to be seen as a grant and an earlier decision by the Commissioners was that any grants of this nature should go through the Mainstream Grants process.

2.3 Option 3 Keep the delivery of the Mela in house

Pros of in house delivery	Cons of in house delivery
Proven track record of effective delivery so lessens risks of poor or no event and community division.	Community may be split over whether this should be a community run event
Enables Council to have maximum control over content and delivery framework	Ongoing costs to council though there is scope for improved sponsorship and trading income over 2016 event – less like for sponsorship if a council event
Ensures effective community engagement	If the event had to be cancelled due to lack of funds available then this could cause reputational damage.

2.4 Option 4 – Do nothing

The Council could after the delivery of the 2016 Mela announce that it did not

have the resources going forward to either deliver the Mela itself or provide the required level to a third party to deliver the event. This would not stop any organisation coming forward with their proposals to deliver a Mela without funding support which could be evaluated on merit with regard to use of Council parks space.

Pros of doing nothing	Cons of doing nothing
No cost to the council	Reputational damage for ceasing to support an important community event
No risk of managing third party delivery and ensuring transparency and fulfilling of audit requirements	Possibility of having to turn down proposals to run a Mela if they don't meet requirements around safe delivery.
Opens up the opportunity for external groups to come forward with their own proposals	Could open up the possibility of multiple proposals for smaller competing events to replace the Mela.

3. DETAILS OF REPORT

3.1 In 2011 following a Cabinet decision the Council returned the Mela to community management. The Boishakhi Mela Trust (Trust) was successful in tendering for the contract and received the right to manage the Mela for a period of nine years subject to reviews at year one, three and six by an independent panel. The panel is made up of external members from the council and the borough. The completion of the 2014 Mela fell into year three and triggered the second Independent Panel review to take place. However, the review could only take place following the completion of the 2014 audit. This was completed at the end of October 2015 and the review panel met in November 2015.

A key aspect of the Mela management agreement was that the financial support from the Council would taper off over a period of years. In the first year the core grant was up to £150,000 along with a one off payment of £30k (section 106 monies) to support the parade element.

In 2013 the grant was up to £170,000, which was in part informed by the moving of the event from Weavers Fields to Victoria Park and associated costs this would incur.

In 2014 the Trust was approved a grant of £100,000 by the Mainstream Grants Board. Each year the Trust was forward funded the grant of up to 80%.

In 2015 the decision for approval of grant funding to the Trust sat with the Commissioners who did not approve their grant funding application. One of the key reasons the commissioners gave for this decision was the Trust's failure to complete the 2014 audit.

The commissioner decision also required that any future funding applications for the Mela should only be applied for under the MSG process and funding should be applied for a 3 year period. The MSG process for 2015-18 closed and no funding application for the Mela was made by the Trust.

3.2 In house delivery of the Mela 2016

The 2016 Mela was delivered in house by the Council's Arts and Events team on the 31st July in Weavers Fields. The event started with a parade at Buxton Street travelling down Brick Lane, Old Montague Street, Vallance Road into Weavers Fields. Featuring local groups in colourful costumes carrying banners and flags along with a large mobile elephant and turtle with music systems providing dance tracks for several dance groups it was a fantastic sight and great way to kick the Mela off. New features of family tent, sports activities and arts hub all proved very popular.

Estimated audience across the day was 40,000 peaking at around 20,000 late afternoon for the headline acts on the main stage. The council successfully met its key objectives of making the event more family friendly, attracting a more culturally diverse audience along with a minimal impact on the local community. Overall a great success with much positive feedback through NTV on site vox pops, the Mela engagement group and feedback to staff on the day from residents attending the event and in particular from the family and arts hub tents.

3.3 Future Management of the Mela:

The event features one large main stage programme that features both local and International Artists, with no second stage (changes made since 2013). Other attractions include a fairground, presenting a wide range of smaller children's rides and larger rides. The event also hosted a large craft market, food traders and a range of sponsor tents. Newly introduced sports, family tent and art hub were a great success and are proposed to be repeated in future years. The parade was also a great success in 2016 and would be retained if there is sufficient funding available.

3.4 Indicative Budget - In house Delivery

The finances for 2016 Mela are set out below and are set out below

Item	Weavers Fields	
Licences	5,299	
Premises Licence application & PRS Licence		
Security	32,895	
Brick Lane Closure	N/A	
First Aid		

	3,464	
Traffic Management plans	3,695	
Waste Management (neighbouring streets)	7,019	
Internal Traffic management	N/A	
Marketing /PR/design and print and adverts	25,931	
Production Cost (staging, PA, lighting, generators, fencing, water supply, tents, power etc.)	85,369	
Event support staff Site & Technical Production / site Management, Trading coordination, Health & Safety, welfare, site crew, Bangladeshi speaking artist liaison etc. (advancing & Onsite)	34,210	
Admin	N/A	
Hospitality catering (members, guests, sponsors)	1,900	
Crew catering	1,008	
Programme (including – a selection of International artists, visas, flights, hotels, airport transfers, pre-show rehearsals) House Band Local Artists Family tent and sports and arts hub, walkabouts Parade content	43,927 9,754 24,603	
Council internal costs	7020	
Contingency	N/A	
Total Spend	286,134	
Income trading	32,430	
Income sponsors	59,416	
Cost to Council	194,284	

Note: Overall cost increase was approved by the Mayor and supported by increased income from sponsorship which initially was not thought likely in the time frame allowed for delivery.

3.5 Future delivery of the Mela

The Mela is the Council's largest annual festival and holds high importance for the resident Bengali community, brings visitors from far and wide and helps to put the borough on the cultural map. It brings with it many challenges, which are not uncommon in large community events i.e. Notting Hill Carnival, but the council has for many years been successful in either ensuring effective delivery by third parties or delivering the event itself.

As it is effectively now too late for any tendering or commissioning process for a Mela in May 2017, given a decision has yet to be made on options presented in this report, we are recommending that the delivery stays in house for a Mela in 2017.

3.6 In-house management for 2017

The Mela has traditionally taken place in early May on a Sunday. Bearing in mind that Ramadan starts on 27th May in 2017, the ideal day for Mela 2017 would be the 14th May although it could also be considered for Bank Holiday weekend Sunday 30th April. There are some concerns about the weather at this time of year and the negative impact this could have on turnout, it therefore is worth considering having the Mela later in the year after Ramadan when the weather is likely to be much better. It would be very challenging to complete a tender process in time for the desired planning time lines for an event of this size, first planning meeting should be in October 2016. The 2017 Mela could be delivered in house allowing time to market test other options of delivery before making a final decision on future delivery options, which would reduce any risk of failure of tender which could leave limited time to find other options.

4. COMMENTS OF THE CHIEF FINANCE OFFICER

- 4.1 The report sets out for consideration the options for the future delivery of the Mela and recommends that for 2017 and 2018 it is delivered in house. It is suggested this would provide sufficient time following consideration of the options, for the one chosen to be implemented whilst being able to ensure the continuity of the event if so required..
- 4.2 The Boishakhi Mela Community Trust was awarded the contract in 2012 and received £150,000 grant and an additional payment of £30,000. The 2013 and 2014 grants of £170,000 and £100,000 were approved by the Mainstream Grants Board. Payment of 80% of each grant tranche was paid in advance, with the balance being paid upon delivery of the event to the council's satisfaction. The Commissioners appointed by CLG assumed grant making

powers after government direction, and no grant was awarded for the 2015 Mela which was again delivered by the Trust.

- 4.3 The 2016 Mela was delivered in house following the cancellation of the contract with BMCT. A breakdown of the indicative costs for the event is contained within the report. The total cost of the 2016 Mela was £286,134. The breakdown of the funding shows that from trading income and sponsorship a total of £91,846 was received, and a total of £25,000 was contributed from the Arts and Events budget which the Council was already contractually committed to provide as support 'in kind'. The balance of up to £170,000 is to be met from general fund reserves.
- 4.4 The report recommends that for both the 2017 and 2018 Mela is the Council continued to provide the events through an in-house solution. If agreed the resources to support the in-house provision of the Mela on the same scale as in 2016 identified as up to £170,000 will need to be considered as part of the development of the Council's Medium Term Financial Strategy.
- 4.5 The report considers four options for the future delivery of the Mela. The first two options will require a tender process to be commission, either as a commercial event opportunity or as a community event. For both options there is the expectation that some form of subsidy will need to be determined. The third option proposes the continuation with the in-house provision of the Mela, whilst the final option considers ceasing the event either with immediate effect or following the 2017 Mela.
- 4.6 If the decision is made to continue with the provision of the Mela, the option chosen will need to provide a stable and sustainable event that achieves best value for money and minimal financial cost given on-going challenge for the council of closing its funding gap. The extent to which sufficient resources can be identified to fund future events will need to be considered in the light of available resources, including any review of future mainstream grant funding and impact on the Council's Medium Term Financial Strategy.

5. LEGAL COMMENTS

- 5.1 The Council has the power to hold the Mela or allow the holding of the Mela by others and to set aside a park or parts of a park for so doing under section 145 of the Local Government Act 1972.
- 5.2 However, it should be noted that where the Council decides to provide the Mela "in house" then this decision must still represent Best Value for the purposes of section 3 of the Local Government Act 1999
- 5.3 Under section 111 of the Local Government Act 1972 the Council also has the power to do anything incidental to the exercising of any of its functions. Entering into a contract for the performance of a part of its function is incidental to that function. Therefore, in the performance of its leisure function,

and under which it has the power under section 145 to provide for the Mela the Council has the ability to enter into contracts for this purpose also.

- 5.4 Therefore, where the Council determines that the appropriate option is to provide for the Mela “in house”, it has the power to also enter into contracts to purchase items and services to support that in house provision.
- 5.5 However, it should be noted that each of those purchases (if any) will be subject to their own procurements in accordance with the variety of item or services that are being purchased. This potentially could include the application of the Public Contracts Regulations 2015 and the requirement to advertise such purchases in Europe.
- 5.6 Any such purchases will also need to comply with the Council’s constitution and in particular the Procurement Procedures and other Financial Regulations.
- 5.7 The Council will also need to ensure that any such purchases will also meet the Council’s Best Value Duty in accordance with Section 3 of the Local Government Act 1999. However, this will be met if all purchases are subject to an appropriate level of tendering with the winning bidder being chosen following an evaluation representing an appropriate blend of both quality and Price.
- 5.8 The Council may choose to acquire an external organisation to produce the Mela as a whole (alternative options 1 and 2). Regardless of whether or not the external organisation is a local organisation, or a general commercial organisation, the nature of the resulting contract would be a concession. A concession is a breed of services contract, but its nature is one where the organisation who wins the concession as the right to exploit some form of asset (real or intellectual) for some sort of economic benefit.
- 5.9 The Concession Contracts Regulations were enacted into UK law in April 2016. This has brought into British Law the relevant European Directive. Prior to this, Concession agreements were exempt from the application of the Public Contracts Regulations 2015. However, where the value of the Concession is greater than £4,104,394.00 then the Concession must be advertised and procured in accordance with the Concession Contract Regulations.
- 5.10 It should be noted that the value of the concession:
 - 5.10.1 is the total amount of money that could be exploited. In this case this is not only in the form of money in terms of financial support received by the Council (if any) but also includes any other forms of enrichment such as ticket sales, sale of food and drink, the sale of the right to sell food and drink, endorsements, sponsorship etc
 - 5.10.2 does not take into account the contractor’s anticipated expenditure. The value is simply the amount of money that could be brought in rather than profit.

5.10.3 is estimated and aggregated across the whole term of the prospective contract.

- 5.11 However, notwithstanding the foregoing it may be that the value of the concession may not be above the threshold for the application of the Concession Contracts Regulations. However, the European Case of Parking Brixen determines that such a procurement must still be subject to a “reasonable level of advertising”. Therefore, such a concession ought to be advertised at least through the Council’s Tender portal with the choice of winning bidder being subject to an evaluation on a Most Economically advantageous basis.
- 5.12 It is notable also that the Council must also abide by its Section 3 Best Value Duty in respect of the award of any such concession.
- 5.13 The length of time it would take to run a compliant tender process for the concession should be taken into account when making the decision as to the solution for providing the Mela. It is likely that the length of time would be such that it would impact the successful delivery of the Mela for the coming year.
- 5.14 Where an external organisation is chosen to run the Mela and where the Council purports to provide assistance to the winning bidder, either in specific financial support or by providing “in kind” services, it should be noted that such support may well constitute a grant for the purposes of directions made by the Secretary of State on 17 December 2014 pursuant to powers under sections 15(5) and 15(6) of the Local Government Act 1999. If this is the case the approval of the appointed Commissioners must be sought prior to the entering into of any document committing the Council to make such assistance.
- 5.15 When considering and making decisions relating to the future provision of the Mela (including Option 4), the Council must have due regard to the need to eliminate unlawful conduct under the Equality Act 2010, the need to advance equality of opportunity and the need to foster good relations between persons who share a protected characteristic and those who don’t (the public sector equality duty).
- 5.16 The main duty under the Equality Act in respect of these decisions is for the Council to properly understand the impact of its decisions on persons with a protected characteristic. Therefore, the Council is obligated to take all reasonable steps to gain that understanding which in itself will be in part dependent upon the nature of the option being considered. Dependent upon the option the it may be that the Council need to do more than a desk top equality analysis in order to discharge this duty.

6. ONE TOWER HAMLETS CONSIDERATIONS

- 6.1 A Safe and Cohesive Community / Foster greater community cohesion – the Boishakhi Mela attracts a high proportion of Bangladeshi residents and provides a safe, family orientated platform for the promotion of Bengali arts

and culture. The event is free to access and attracts over 40,000 residents. In house delivery will ensure continued delivery of cohesion and communities that get on together through effective community engagement and the delivery of a high quality event.

7. BEST VALUE (BV) IMPLICATIONS

- 7.1 Economy - expenditure to be incurred in managing and delivering the proposed in house delivery of the Boishakhi Mela is detailed in Section 4 of this report. A decision to approve the delivery of the Boishakhi Mela in house in 2017 and 2018 would enable the council to increase the opportunity to leverage sponsorship and other income streams from concessions.
- 7.2 Efficiency and effectiveness – approval to deliver the event in house for 2 years would enable effective use of resources, both in terms of staffing and asset use. Key areas such as community engagement would be better served if the council was able to build more effective partnerships with schools, cultural groups and local businesses in contributing to the delivery of the mela.

8. SUSTAINABLE ACTION FOR A GREENER ENVIRONMENT

- 8.1 No implications identified.

9. RISK MANAGEMENT IMPLICATIONS

- 9.1 The risks associated with not agreeing to the in house delivery of the Mela is set out in Section 2 of the report.

10. CRIME AND DISORDER REDUCTION IMPLICATIONS

- 10.1 No implications identified.

11. SAFEGUARDING IMPLICATIONS

- 11.1 No implications identified.

Linked Reports, Appendices and Background Documents

Linked Report

- NONE

Appendices

- Equality Analysis Quality Assurance Checklist - Appendix 1

Background Documents – Local Authorities (Executive Arrangements)(Access to Information)(England) Regulations 2012

- NONE

Officer contact details for documents:
Or state N/A